



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0174]

Agency Information Collection Activities; Approval of a New Information

Collection Request: Effectiveness of Third-Party Testing and Minimum Standards for Commercial Driver's License (CDL) Knowledge and Skills Tests

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. This ICR is related to the collection of information to determine the effectiveness of (a) third-party testing programs as they relate to commercial driver's license (CDL) skills and knowledge tests and (b) minimum testing standards for CDL skills and knowledge tests.

DATES: Comments on this notice must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Kelly Stowe, Research Division, Office of Analysis, Research, and Technology, DOT, FMCSA, West Building 6th Floor,

1200 New Jersey Avenue SE, Washington, DC 20590-0001; 617-386-6807;

kelly.stowe@dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Effectiveness of Third-Party Testing and Minimum Standards for Commercial Driver's License (CDL) Knowledge and Skills Tests.

OMB Control Number: 2126-00XX.

Type of Request: New ICR.

Respondents: State and local Government employees (management, professional and related); one respondent per State and one respondent for the District of Columbia.

Estimated Number of Respondents: 51 respondents.

Estimated Time per Response: 1.42 hours per respondent.

Expiration Date: N/A. This is a new ICR.

Frequency of Response: There is a one-time response to the survey per respondent.

Estimated Total Annual Burden: 72.42 hours (1.42 hours per response x 51 respondents).

BACKGROUND: The CDL program was enacted through the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Pub. L. 99-570, 100 Stat. 3207-170) in response to jurisdiction concerns about avoidable commercial motor vehicle (CMV) crashes and commercial driver qualifications. The CMVSA required the Secretary of Transportation to promulgate regulations establishing minimum Federal requirements for CMV driver licensing, testing, qualifications, and driver classifications depending on the vehicle configuration. CMVSA further established the "one driver, one license" requirement, prohibiting any person who does not hold a valid CDL or learner's permit issued by their jurisdiction of domicile from operating a CMV that requires a driver with a CDL and established additional requirements for drivers who transport hazardous materials. The

prohibition further affected driver training activities by requiring trainees to receive the training and behind-the-wheel experience necessary to acquire their CDL in their jurisdiction of domicile. CMVSA's requirements became effective in 1992 and the requirements of the Act are implemented in Title 49, Code of Federal Regulations (CFR), parts 383 and 384, with section 383.51 establishing disqualifications and penalties for drivers convicted of traffic violations.

In 2005, the American Association of Motor Vehicle Administrators (AAMVA) developed a model testing system that FMCSA approved, thus ensuring that jurisdictions using the Test Model maintain compliance with Federal Motor Carrier Safety Regulations governing CDL program training and licensing standards. In 2011, FMCSA established by regulation a requirement that all jurisdictions utilize a testing system that substantially conforms with the 2005 AAMVA CDL Test Model (76 FR 26854). The Test Model, which was upgraded in 2010 and 2014, is currently being used to some degree in all 51 jurisdictions; however, the safety benefits and other potential benefits of utilizing the 2005 AAMVA CDL Test Model have not been fully evaluated.

In the Moving Ahead for Progress in the 21st Century Act legislation signed into law on July 6, 2012, Congress passed a requirement for FMCSA to establish an entry level driver training (ELDT) program that both enhanced existing training standards and established minimum-level CDL requirements consistent across all jurisdictions (Pub. L. 112-141, 126 Stat. 405). FMCSA's goal was to raise the standard of training, improve the quality of training, and reduce commercial vehicle accidents in every jurisdiction. Implemented in 49 CFR part 380, subpart F, the ELDT rule revised the mandatory training requirements for entry-level CMV operators who are required to possess a Class A or B CDL; seek to upgrade their CDL; or wish to obtain a hazardous material, school bus, or passenger endorsement (86 FR 34631). The ELDT program was implemented beginning February 7, 2022.

An additional benefit of implementing ELDT is that the training standards and minimum-level CDL requirements will apply to both jurisdiction and third-party examiners. Many jurisdictions rely extensively on third-party entities to provide training and conduct knowledge and skills tests. FMCSA currently prohibits the same third-party entity from serving as both trainer and examiner. Current prohibitions limit the ability jurisdictions have to increase training capacity. This has resulted in the more frequent use of third-party entities to make up shortfalls between the demand for CDLs and a jurisdiction's ability to provide training and examinations. There is a well-documented driver shortfall in the trucking industry and the use of third-party entities to conduct training and examinations helps with increasing examiner capacity and reducing delays in drivers being issued CDLs. However, a challenge for FMCSA and jurisdictions is that to date, there is limited research available correlating driver performance with the type of training received (jurisdiction or third party).

An additional challenge that has faced the CDL program since its inception has been fraud associated with the current AAMVA CDL Test Model. The provisions of 49 CFR 384.228 and 384.229 are intended to provide States with a mechanism for detecting potential fraud and ensuring that all requirements are being addressed. Maintaining proper oversight and auditing third-party training providers remains a challenge. The Training Provider Registry requirement for self-certification of compliance with ELDT and State CMV instruction requirements adds to this challenge and will require FMCSA and the State Driver Licensing Agencies (SDLAs) to ensure third-party training provider self-certifications are accurate and meet all requirements, in accordance with 49 CFR part 380 and 49 CFR 383.73(p).

To address these information gaps, FMCSA is conducting a project titled "Effectiveness of Third-Party Testing and Minimum Standards for CDL Knowledge and Skills Tests," which will assess the effectiveness of the ELDT program, assess third-party

training provider performance, and verify/validate compliance with ELDT minimum standards. This project is intended to address the following research questions:

1. Is there evidence of increasing or decreasing fraud among third-party examiners based on the pass rates and subsequent safety history of CDL holders who were tested by third-party testers?
2. Are there significant differences in the outcomes of third-party testing on CDL testing?
3. Would it be feasible to conduct a future study on the safety impacts of delegating CDL knowledge testing to third-party testers based on available data?
4. How do the driving histories of drivers who received behind-the-wheel training (pre-ELDT requirements) compare to drivers who completed the new ELDT requirements?
5. How do the driving histories of drivers who received theory instruction (pre-ELDT requirements) compare to drivers who completed the new ELDT requirements?
6. How do skills test pass rates of drivers pre-ELDT compliance compare to pass rates of drivers after the ELDT compliance date?
7. Are there identifiable safety benefits that have been realized by the adoption of the 2005 AAMVA CDL Test Model?
8. Are there external factors preventing SDLAs and the CDL community from achieving the full potential of safety benefits of the 2005 AAMVA CDL Test Model?

This one-time survey is necessary to determine institutional and programmatic issues in assessing the effectiveness of the ELDT program and where improvements should be made; this will ultimately contribute to the safety of our transportation system.

The survey will allow researchers to determine which version of the AAMVA CDL Test Model (or equivalent) is being utilized, as required by 49 CFR 383.131 through 133.

Response to Public Comments

On September 21, 2022, FMCSA published a 60-day notice in the *Federal Register* seeking public comment on this proposed information collection. FMCSA received five comments. Below are summaries of the comments received, along with FMCSA's responses.

Iowa Department of Transportation (DOT)

Comments: Overall, the Iowa DOT was supportive of the study. They raised concerns over a reference in the 60-day notice to SDLA challenges associated with maintaining proper oversight of third-party training providers and allocating resources to ensure third-party training providers' self-certifications are accurate and meet all requirements (87 FR 57748, 57749-50). The Iowa DOT stated that it is not a requirement for SDLAs to audit or oversee the training provided by ELDT providers. Separately, the Iowa DOT raised questions about the objectives of the planned research effort, the availability of necessary data to assess the effectiveness of ELDT and the 2005 AAMVA CDL Test Model, and the ability of States to provide specific data fields from driving history records. The Iowa DOT also recommended future ELDT-related research topics.

Agency Response: FMCSA or its authorized representative will audit ELDT providers' training operations in accordance with 49 CFR part 380, to ensure providers are meeting the criteria set forth in the regulation. Separately, 49 CFR 383.73(p) states that after February 7, 2022, States must notify FMCSA that a training provider in the State does not meet applicable State requirements for CMV instruction. While States are not required to actively investigate training providers, when a State does become aware that a training provider conducting training in their State does not meet applicable State requirements for CMV instruction, the State is required to notify FMCSA. Thus, if a

State has requirements for CMV instruction (for example, if a State requires training providers to provide a minimum number of hours of behind-the-wheel training), the State is responsible for ensuring ELDT providers in the State are meeting those requirements. If an ELDT provider is not meeting the State's CMV instruction requirements, the State must notify FMCSA. FMCSA has adjusted the wording in this notice to improve clarity around this issue.

The Iowa DOT raised concerns about the objectives of the study and the availability of necessary data to evaluate the effectiveness of ELDT. FMCSA has developed specific research questions for the current study, outlined in this notice. A broad objective of the study is to evaluate the effectiveness of the ELDT program; however, the research questions narrow that objective to focus on the effect of the ELDT program on driver histories and Safety Measurement System (SMS) scores. The Agency will use data from the Training Provider Registry, the Commercial Driver's License Information System, the Commercial Skills Test Information Management System, AAMVA's Report Out-of-State Test Results web application, the Motor Carrier Management Information System, and driver history records to answer the ELDT-related research questions. The Iowa DOT noted that it may be difficult for States to provide specific data fields from driver history records to accommodate this study. FMCSA does not anticipate requesting data fields that SDLAs are not already providing through the systems listed above. For example, FMCSA does not expect SDLAs to provide data regarding the training received by their drivers prior to the implementation of ELDT, nor does FMCSA expect SDLAs to perform comparisons of training data. FMCSA welcomes the State's suggestion to provide bulk driver history data so that FMCSA may perform its own analysis of the data.

Regarding FMCSA's plans to assess the benefits of the 2005 AAMVA CDL Test Model, the Iowa DOT questioned whether FMCSA would be able to draw comparisons

between the 2005 AAMVA CDL Test Model and former models, as many States have been using the 2005 AAMVA Test Model for many years, and some States (like Iowa) will be implementing a modernized version in 2023. FMCSA is not drawing comparisons between the 2005 AAMVA CDL Test Model and former test models that States may have used prior to adopting the 2005 AAMVA CDL Test Model. Instead, FMCSA is interested in assessing the benefits of the AAMVA CDL Test Model in general. The Agency will attempt to identify the version of the AAMVA CDL Test Model that each State is using by examining the road skills test score sheets being used by the State. Each variant of the road skills test sheet represents updates to the testing model (e.g., 2010 score sheet or later) and the way that the skills test was conducted. FMCSA plans to look at data related to skills tests from various States, including in States that have historically implemented each version of the AAMVA CDL Test Model as it was released (including, if possible, the modernized version released in 2022).

Finally, the Iowa DOT recommended several research topics to fully assess the effectiveness of the ELDT program. FMCSA acknowledges the Iowa DOT's suggested research topics and will consider them in future research planning cycles.

Montana Department of Justice (DOJ) Motor Vehicle Division

Comments: The Montana DOJ Motor Vehicle Division was supportive of the study; however, they raised concerns about some of the language in the 60-day notice pertaining to the role of SDLAs in the oversight of third-party ELDT providers.

Agency Response: The Iowa DOT identified similar concerns in its comments. See FMCSA's response to the Iowa DOT, above.

New York State Department of Motor Vehicles (DMV)

Comments: The New York State DMV provided responses to the eight research questions listed in the 60-day *Federal Register* notice.

Agency Response: FMCSA thanks the New York State DMV for its responses to the study research questions. The Agency will reach out to gather more information once data collection begins.

National School Transportation Association (NSTA)

Comments: NSTA did not comment on the proposed information collection; however, the organization did state that it supports third-party testing implementation for CDL licensing, due to its potential to streamline the CDL process and address the nationwide bus driver shortage. Conversely, NSTA raised concerns that ELDT requirements negatively affect the ability of school bus contractors to recruit drivers, as “applicants have to learn and be tested in areas not germane to their role as a school bus driver.” NSTA also stated that ELDT requirements can be duplicative of State programs already in place, which can impede the licensing process for school bus drivers. NSTA stated that “removal of redundancies is paramount” to alleviate the national school bus driver shortage.

Agency Response: FMCSA invites NSTA to work with the Agency to identify redundancies in ELDT and State bus driver licensing requirements.

Alexandria Technical and Community College

Comments: Alexandria Technical and Community College, a learning institution that provides professional truck driver training, indicated support for third-party testing and advocated for “broad sweeping” annual audits of ELDT providers, more stringent requirements for ELDT providers and third-party CDL examiners, and minimum timeframe requirements for theory, behind-the-wheel range, and road training.

Agency Response: FMCSA is developing plans for an ELDT audit program. The Agency will continue to conduct research to support decision-making around the CDL and ELDT programs.

Title 23, United States Code (U.S.C.), chapter 4, section 403 authorizes the Secretary to use funds appropriated to carry out that section to conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information with respect to all aspects of highway and traffic safety systems and conditions relating to vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics; accident causation and investigations; human behavioral factors and their effect on highway and traffic safety, including driver education, impaired driving and distracted driving; research on, evaluations of, and identification of best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration, and delivery mechanisms) and recommendations for harmonizing driver education and multistage graduated licensing systems; and the effect of State laws on any aspects, activities, or programs described above (see 23 U.S.C. 403(b)(1)(A)(i) through (ii), 23 U.S.C. 403(b)(1)(B)(i) through (iii), 23 U.S.C. 403(b)(1)(E), 23 U.S.C. 403(b)(1)(F)).

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator,

Office of Research and Registration.

[FR Doc. 2023-03505 Filed: 2/17/2023 8:45 am; Publication Date: 2/21/2023]